IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, et al.,)))
Plaintiffs,) Civil Action No. 21-cv-00410-LKC
v.) Dated: October 24, 2022
PETER FRANCHOT, et al.,)
Defendants.)))

ORDER

The Court is scheduled to hold oral arguments on the parties' dispositive motions regarding whether the pass-through prohibition contained in the State of Maryland's Digital Advertising Tax Act (the "DATA"), 2021 Md. Laws ch. 37, codified at Title 7.5 of the Tax-General Article, violates the First Amendment on November 29, 2022. See ECF No. 87. On October 17, 2022, the Circuit Court for Anne Arundel County issued a decision in Comcast of California/Maryland/Pennsylvania/Virginia/West Virginia LLC, et al. v. Comptroller of the Treasury of Maryland, No. C-02-CV-21-000509, holding, among other things, that the DATA violates the First Amendment, because the statute is not content neutral and selectively taxes the plaintiffs in that case. See ECF No. 88 at 3.

On October 21, 2022, the plaintiffs in this action submitted letter correspondence requesting that this Court proceed with the scheduled oral arguments. *See generally id.* In their correspondence, plaintiffs maintain that this case is not moot, because: (1) the Circuit Court did not rule specifically on the constitutionality of the DATA's pass-through prohibition; (2) the State of Maryland has indicated its intent to appeal the Circuit Court's decision; and (3) plaintiffs remain uncertain about whether they may identify the estimated taxes paid under the DATA on an invoice or other customer statement. *Id.* at 1. And so, plaintiffs requests that the Court proceed with the scheduled oral arguments. *See id.*

In light of the foregoing, defendants shall **FILE** a status report **on or before October 31, 2022**, stating their views regarding whether the Court should proceed with the oral arguments scheduled to be held in this matter.

IT IS SO ORDERED.

s/ Lydia Kay Griggsby
LYDIA KAY GRIGGSBY
United States District Judge